UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,373	12/22/2005	John Harrison	UDL1P019/GJA/pw/P400376US	3389

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2169	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

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Office Action Summary	Application No.	Applicant(s)
	10/534,373	HARRISON ET AL.
	Examiner	Art Unit
	Viresh R. Patel	2169

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>*12/22/2005*</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>*11-18*</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>*11-18*</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>*5/9/2005*</u> is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>*5/9/2005*</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Detailed Action

Preliminary Amendment

1.   This Office Action is in response to applicant's communication filed 5/9/2005. The

Applicant's amendments to the claims and/or the specification were considered with the

results that follow.

2.   Claims 11-18 have been presented for examination in this application. In view the

amendment filed, claims 1-10 have been cancelled and claims 11-18 have been added.

As a result, claims 11-18 are now pending in this application.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 14-17 and 18 are rejected under 35 U.S.C. 101 because the claimed

invention is directed to non-statutory subject matter.

Claims 14-16 are rejected as falling under the judicial exception of an abstract

idea which lacks a useful, concrete and tangible result. A claimed series of steps or

acts that do not result in a useful, concrete, and tangible result are not statutory within

the meaning of 35 USC 101. In the instant case, the claims recite, "receiving" and

"analyzing," however no useful, concrete, and tangible result is claimed. For example,

"writing said data," "updating said data," "sending said data" being claimed at the end of

the claim may comprise a useful concrete and tangible result. Absent such a result,
however, the claims are not statutory.

Claims 17 and 18 lack the necessary physical articles or objects to constitute a
machine or manufacture within the meaning of 35 USC 101. A computer program
product is claimed, however the limitations of the claimed invention can be achieved
exclusively through the user of software. As such, they fail to fall within a statutory
category. They are descriptive material per se.

Descriptive material can be characterized as either "functional" or
"nonfunctional." Both types of descriptive material are nonstatutory when claimed as
descriptive material per se, 33 F. 3d 1360, 31 USPQ2d at 1759.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that
form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

5.   Claims 11, 12, 14, 15, and 17 are rejected under 35 U.S.C. 102(e) as being
anticipated by Cowdrey et al, 6895437, herein after referred to as Cowdrey.

As to claim 11, Cowdrey teaches a method of acquiring data relating to website activity in a network of interconnected computers, the method comprising:

- "defining, at a first computer, a first computer code defining a set of data parameters, the values of which are to be acquired from a second computer; and supplying to said second computer, in response to a request for web page data sent to said first computer from said second computer web page data together with said first computer code" at column 4, lines 20-39 and column 5, lines 30-43 (Cowdrey teaches a client program sent to the client with specific monitoring features)

- "wherein said first computer code is adapted to acquire from said second computer the values of said set of data parameters and provide said values, together with data identifying said parameters, to a third computer" at column 4, lines 39-57 (Cowdrey teaches a data server which receives the data and a reporting server which analyzes the data)

As to claim 12, Cowdrey teaches a method according to claim 11, wherein "said data identifying said parameters represents the type and/or format and/or description of said data values" at column 5, lines 30-43

As to claim 14, Cowdrey teaches a method of monitoring website activity in a network of interconnected computers, the method comprising:

- "receiving at first computer, in response to a request for web page data sent from a second computer to a third computer, a set of data values, representing values of a set of parameters relation to said second computer, from said second computer together with data identifying said parameters, and analyzing said data values using said data identifying parameters" at column 4, lines 20-57 and column 5, lines 30-43

  (Cowdrey teaches a client program sent to the client with specific monitoring features, monitored data sent back to a server and analyzed by another server)

As to claim 15, Cowdrey teaches a method according to claim 14, wherein "said data identifying said parameters represents the type and/or format and/or description of said data values" at column 5, lines 30-43

As to claim 17, Cowdrey teaches a computer program product comprising:

- "a first computer code to be supplied by a first computer and adapted to define a set of data parameters, the values of which are to be acquired from a second computer, and a second computer code defining data identifying said parameters" at column 4, lines 20-39 and column 5, lines 30-43

  (Cowdrey teaches a client program sent to the client with specific monitoring features)

- "wherein said first and second computer codes are adapted to be supplied to said second computer in response to a request from said second computer for

web page data from said first computer and to provide said data values together

with said data identifying said parameters to a third computer" at column 4, lines

20-57 and column 5, lines 30-43

(Cowdrey teaches a client program sent to the client with specific monitoring

features, monitored data sent back to a server and analyzed by another server)

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 13, 16, and 18 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Cowdrey in view of Boerbert et al, US Patent No5272754, herein

after referred to as Boerbert.

As to claim 13, Cowdrey teaches a method according to claim 11 as set forth

above.

The different between Cowdrey and the claimed invention is that Cowdrey does

not explicitly teach the step of supplying a second computer code to said second

computer, wherein said second computer code is adapted to encrypt said data values

and/or said data identifying said parameters.

However, Boerbert teaches a similar method further comprising "the step of supplying a second computer code to said second computer, wherein said second computer code is adapted to encrypt said data values and/or said data identifying said parameters" at column 5, line 49 – column 6, line 5

Thus, it would be obvious to one of ordinary skill in the art at the time the invention was made to combine Cowdrey and Boerbert 's teachings in order to allow secure communication between client and server over a network.

As to claim 16, Cowdrey teaches a method according to claim 14 as set forth above.

The different between Cowdrey and the claimed invention is that Cowdrey does not explicitly teach the step of supplying a second computer code to said second computer, wherein said second computer code is adapted to encrypt said data values and/or said data identifying said parameters.

However, Boerbert teaches a similar method further comprising "the step of supplying a second computer code to said second computer, wherein said second computer code is adapted to encrypt said data values and/or said data identifying said parameters" at column 5, line 49 – column 6, line 5

Thus, it would be obvious to one of ordinary skill in the art at the time the invention was made to combine Cowdrey and Boerbert 's teachings in order to allow secure communication between client and server over a network.

As to claim 18, Cowdrey teaches a method according to claim 17 as set forth above.

The different between Cowdrey and the claimed invention is that Cowdrey does not explicitly teach a third computer code adapted to encrypt data sent from said second computer.

However, Boerbert teaches a similar method further comprising "a third computer code adapted to encrypt data sent from said second computer" at column 5, line 49 – column 6, line 5

Thus, it would be obvious to one of ordinary skill in the art at the time the invention was made to combine Cowdrey and Boerbert 's teachings in order to allow secure communication between client and server over a network.

Conclusion

The following prior are made of record however no relied upon is considered pertinent to applicant's disclosure.

Kollmyer et al (US Patent No. 7165175), discloses a system a method for selectively encrypting portions of data sent over a network.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viresh R. Patel whose telephone number is 571 270 1630. The examiner can normally be reached on 7:30 AM - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pierre Vital can be reached on 571 272 4215. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VP 9/28/2007 KBP

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